

LEWIS  
AND  
ROCA  
LLP  
LAWYERS

3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
Telephone: (702) 949-8320  
Facsimile: (702) 949-8321

40 North Central Avenue  
Phoenix, Arizona 85004

Susan M. Freeman, AZ State Bar No. 004199  
E-mail: [sfreeman@lrlaw.com](mailto:sfreeman@lrlaw.com)  
Rob Charles, NV State Bar No. 006593  
E-mail: [rcharles@lrlaw.com](mailto:rcharles@lrlaw.com)  
John Hinderaker, AZ State Bar No. 018024  
E-mail: [jhinderaker@lrlaw.com](mailto:jhinderaker@lrlaw.com)  
Attorneys for the USACM Liquidating Trust

E-Filed on 7/30/07

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.  
BK-S-06-10725-LBR

**Notice to Everett H. Johnston Family  
Trust, dtd 1/24/90 of the USACM  
Liquidating Trust's Objection to  
Claim(s) and Motion For Summary  
Judgment Regarding Same Claims**

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

**NOTICE IS HEREBY GIVEN** to Everett H. Johnston Family Trust, dtd 1/24/90  
that on July 30, 2007, the USACM Liquidating Trust ("USACM") filed an objection to  
Claim No(s). 10725-02555, and 10725-02561 (the "Objection") and a Motion for  
Summary Judgment (the "Motion") on those same claim(s). Along with this notice,

USACM is serving Everett H. Johnston Family Trust, dtd 1/24/90 with a copy of both the Objection and the Motion.

Everett H. Johnston Family Trust, dtd 1/24/90 filed Proof of Claim No(s). 10725-02555, and 10725-02561, which asserted secured claim(s) against USA Commercial Mortgage Company. The Objection and the Motion dispute the assertion of secured claim status and ask the Court to reclassify your claim(s) as a general unsecured claim. This is not an objection to your claim as a direct lender or to the security interest you as a direct lender have in your borrowers' property as collateral. Rather, the Objection and the Motion argue that your claim(s) are not secured by property of the bankruptcy estate.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT OF THE BANKRUPTCY COURT TO DISCUSS THE MERITS OF YOUR CLAIM.**  
**QUESTIONS REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM SHOULD BE DIRECTED TO BMC GROUP AT 888-909-0100, WWW.BMCGROUP.COM/USACMC, OR TO UNDERSIGNED COUNSEL.**

**NOTICE IS FURTHER GIVEN** that any opposition to the Objection/Motion must be filed pursuant to Local Rule 9014(d)(1). If you do not want the Court to grant the relief sought in the Objection/Motion, or if you want to explain why you believe your claim(s) are secured claim(s) or otherwise want the Court to consider your views on the Objection/Motion, then you must file an opposition to the Motion with the Court, and serve a copy on the USACM Liquidating Trust **NO LATER THAN AUGUST 17, 2007.** The opposition must state your position, set forth all relevant facts and legal authority, provide relevant documents that support your claim to secured status, and be supported by affidavits or declarations that conform to Local Rule 9014(c).

If you object to the relief requested in the Objection/Motion, you *must* file a **WRITTEN** response to this pleading with the Court. You *must* also serve your written response to the person who sent you this notice.

If you do not file a written response with the Court, or if you do not serve your written response on the person who sent you this notice, then:

- The Court may *refuse to allow you to speak* at the scheduled hearing; and
- The Court may *rule against you* without formally calling the matter at the hearing.

**NOTICE IS FURTHER GIVEN** that the hearing on the Objection/Motion will be held before a United States Bankruptcy Judge, Courtroom No. 1, Foley Federal Building, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101 on **October 15, 2007** at the hour of **9:30 a.m.** The hearing may be continued from time to time with notice to parties appearing.

Dated July 30, 2007.

**LEWIS AND ROCA LLP**

By /s/ RC (#6593)

Susan M. Freeman, AZ 4199 (*pro hac vice*)

Rob Charles, NV 6593

John C. Hinderaker, AZ 18024 (*pro hac vice*)

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

Telephone: (702) 949-8320

Facsimile: (702) 949-8321

E-mail: rcharles@lrlaw.com

*Attorneys for the USACM Liquidating Trust*